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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/815,371

03/31/2004

Brant L. Candelore

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04/23/2008

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EXAMINER

DOAN, TRANG T

ART UNIT

PAPER NUMBER

2131

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,371	<b>Applicant(s)</b> CANDELORE, BRANT L.	
	<b>Examiner</b> TRANG DOAN	<b>Art Unit</b> 2131	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/27/2004, 09/29/2004, 01/03/2005, 07/21/2006,</u>           | 6) <input type="checkbox"/> Other: _____                          |
| <u>12/11/2006, 04/23/2007 and 06/11/2007.</u>  |   |



### **DETAILED ACTION**

1. Claims 1-15 are pending for consideration.

#### ***Information Disclosure Statement***

2. The information disclosure statements submitted on 09/27/2004, 01/03/2005, 07/21/2006, 12/11/2006, 04/23/2007 and 06/11/2007 are being considered by the examiner.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the limitation “to cause the digital device to disregard contained in the first packet” is not clear to Examiner what causes the digital device to disregard the first packet.

Regarding claim 12, the limitation “disregards the content ... if the second packet identifier of the second packet preceding the first packet is set to a predetermined value” is not clear to Examiner how to disregard the content based on the predetermined value.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4 and 6-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Carny et al. (US 2002/0150239) (hereinafter Carny).

Regarding claim 1, Carny discloses a method for providing content from a head-end to a digital device, comprising: producing an Internet Protocol (IP) datagram including an IP header and a body segmented including a plurality of packets in a Moving Picture Experts Group (MPEG) format including a first packet and a second packet preceding the first packet (Carny: paragraphs 0052 and 0059), the first packet including a first packet identifier to indicate a type of data stored in a payload of the first packet and a second packet including a secondary packet identifier to indicate that the second packet includes content duplicative of content contained in the first packet and to cause the digital device to disregard content contained in the first packet (Carny: paragraphs 0052, 0059 and 0062); and transmitting the IP datagram from the head-end (Carny: paragraph 0006).

Regarding claim 2, Carny further discloses wherein the first packet identifier is a unique value to indicate whether the payload of the first packet includes video, audio or data (Carny: paragraphs 0060 and 0062).

Regarding claim 3, Carny further discloses wherein the IP header comprises a version field to identify an IP version number, a length field to indicate either a length of the IP datagram or a length of the IP header, a source address field to include an IP address of the head-end and a destination address field to include an IP address of the digital device (Carny: paragraphs 0060 and 0062).

Regarding claim 4, Carny further discloses wherein a header of the first packet comprises the first packet identifier (Carny: paragraph 0049).

Regarding claim 6, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 7, Carny further discloses wherein the second packet precedes the first packet (Carny: paragraph 0008).

Regarding claim 8, Carny further discloses wherein content stored in the payload of the first packet is video encrypted using a first key and the duplicative content in the payload of the second packet is the video encrypted using a second key different than the first key (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 9, Carny further discloses wherein content stored in the payload of the first packet is video encrypted using a first encryption algorithm and the duplicative content in the payload of the second packet is the video encrypted using a

second encryption algorithm different than the first encryption algorithm (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 10, Carny further discloses wherein content stored in the payload of the first packet is audio encrypted using a first key and the duplicative content in the payload of the second packet is the audio encrypted using a second key different than the first key (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 11, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

Regarding claim 12, Carny further discloses wherein the second program block disregards the content contained in the payload of the first packet if the second packet identifier of the second packet preceding the first packet is set to a predetermined value (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 13, Carny further discloses wherein the duplicative content contained in the payload of the second packet is video encrypted using a first key and the content in the payload of the first packet is the video encrypted using a second key different than the first key (Carny: See figure 5 and paragraphs 0008, 0053 and 0059).

Regarding claim 14, Carny further discloses a fourth program block to provide the duplicative content to a descrambler situated within a digital device (Carny: See figure 5 and paragraphs 0008, 0052-0053, 0055-0056 and 0059).

Regarding claim 15, this claim has limitations that is similar to those of claim 1, thus it is rejected with the same rationale applied against claim 1 above.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carny in view of Monta et al. (US 7039048) (hereinafter Monta).

Regarding claim 5, Carny does not explicitly disclose wherein prior to producing the IP datagram, the method further comprising: determining whether the destination address field of the IP header is loaded with a multicast IP address, if video is to be transmitted, each of the plurality of packets exclusively comprises a PID having a first value; and if audio is to be transmitted, each of the plurality of packets exclusively comprises a PID having a second value differing from the first value.

However, Monta, in an analogous environment, discloses wherein prior to producing the IP datagram, the method further comprising: determining whether the destination address field of the IP header is loaded with a multicast IP address, if video is to be transmitted, each of the plurality of packets exclusively comprises a PID having a first value; and if audio is to be transmitted, each of the plurality of packets exclusively comprises a PID having a second value differing from the first value (Monta: column 6 lines 8-38). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Monta into the system of Carny to have lower cost to build and maintain and consumes 10 times less



Art Unit: 2131

rack space. Finally, the system can be easily scaled up or down in size and it is compatible with new markets for broadband delivery of digital data in IP packet format (Monta: column 2 lines 27-31).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRANG DOAN whose telephone number is (571)272-0740. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Trang Doan/  
Examiner, Art Unit 2131

/Ayaz R. Sheikh/

Supervisory Patent Examiner, Art Unit 2131